

Message Text

LIMITED OFFICIAL USE

PAGE 01 USUN N 02159 072116Z

ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 EPG-02 COME-00

DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01

TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04 PRS-01

SP-02 SS-15 USIA-06 AF-10 ARA-10 EA-07 EUR-12

NEA-10 /162 W

-----092320 080353Z /14

R 072050Z JUL 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 4365

LIMITED OFFICIAL USE USUN 2159

FROM: LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: COMPULSORY DISPUTE SETTLEMENT NEGOTIATION: RELATION OF
ARTICLE 18 (1)(B) TO ARTICLE L17 OF PART IV

1. IN ORDER TO CLARIFY POSSIBLE MISINTERPRETATION AS TO THE
INTERRELATIONSHIP OF THE CHAIRMAN'S PROPOSED AMENDMENT TO
18 (1)(B) AS REPORTED IN THE CABLE 281508Z ON THE INFORMAL
PLENARY OF JUNE 24 ON PART IV AND PARAGRAPHS 4, AND 7 OF THE
CABLE ON THE INFORMAL PLENARY OF 23 JUNE 1977, THE FOLLOWING
IS SUBMITTED.

2. THE REFERENCE TO ARTICLE 17 IN ARTICLE 18 (1)(B) AS
AMENDED IN PRESIDENT AMERASINGHE'S PROPOSAL TABLED IN THE
INFORMAL PLENARY OF 28 JUNE WAS INTENDED TO MODIFY THE PRO-
VISION ON "MILITARY ACTIVITIES" IN ORDER TO ENSURE THAT THE
EXCEPTION FOR LAW ENFORCEMENT ACTIVITIES WOULD NOT BE AS
UNIVERSALLY APPLICABLE AS THAT FOR MILITARY ACTIVITIES. THE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 USUN N 02159 072116Z

PURPOSE OF THE CROSS REFERENCE WAS TO PROVIDE A LIMITATION ON
THE SCOPE OF THE EXCEPTION RELATING TO LAW ENFORCEMENT ACTI-
VITIES. AS IT COULD, HOWEVER, BE ARGUED THAT THE PHRASE
APPLIES TO MILITARY ACTIVITIES, THE U.S. REPRESENTATIVE TO
THE INFORMAL PLENARY ON PART IV HAS PROPOSED TO THE CHAIR-
MAN THAT THIS AMENDMENT TO 18 (1)(B) BE CHANGED TO READ
AS FOLLOWS: QUOTE DISPUTES CONCERNING MILITARY ACTIVITIES

INCLUDING MILITARY ACTIVITIES BY GOVERNMENT VESSELS AND AIRCRAFT ENGAGED IN NON-COMMERCIAL SERVICE AND, SUBJECT TO THE EXCEPTIONS IN ARTICLE 17, LAW ENFORCEMENT ACTIVITIES IN THE EXERCISE OF SOVEREIGN RIGHTS, EXCLUSIVE RIGHTS OR EXCLUSIVE JURISDICTION RECOGNIZED BY THE PRESENT CONVENTION. UNQUOTE.

3. WITH REGARD TO PARAGRAPHS 4 AND 7 OF 271453Z, UNDER THE REV.2 VERSION OF ARTICLE 18(1)(B), THE MILITARY EXCEPTION THEREIN APPLIES IN ADDITION TO ANY EXCEPTION UNDER ARTICLE 17. FOR EXAMPLE, MILITARY ACTIVITIES BY STATE A IN THE ECONOMIC ZONE OF STATE B WOULD BE IMMUNE FROM PROCESS. THE REV. 2 VERSION OF ARTICLE 18 (1)(B), HOWEVER, WOULD NOT HAVE TREATED LAW ENFORCEMENT ACTIVITIES IN THE ECONOMIC ZONE ON A PARITY, WHICH GAVE RISE TO ECUADOR'S INITIAL OBJECTION. AS A COMPROMISE, THE AMENDMENT OF THE PRESIDENT TO 18 (1)(B) (SEE RESPECTIVE CABLE 281508Z OF JUNE 24) WAS TABLED, WHEREBY LAW ENFORCEMENT ACTIVITIES BY THE COASTAL STATE WOULD BE EXCEPTED FROM COMPULSORY PROCESS WERE THE COASTAL STATE SO TO ELECT UNDER 18, BUT THE EXCEPTION WOULD NOT APPLY TO THE CASES UNDER 17 (1)(A)-(D). IN THE TERMS OF PARAGRAPH 7 OF CABLE 271453Z OF JUNE 23, "ACTIVITIES SUBJECT TO INTERNATIONAL JURISDICTION UNDER 17 WOULD EQUALLY BE SUBJECT TO SUCH JURISDICTION UNDER 18." GIVEN THE U.S. PROPOSED AMENDMENT TO THE PRESIDENT'S REVISION OF 18 (1)(B), HOWEVER, IT WILL BE CLEAR THAT THE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 USUN N 02159 072116Z

ACTIVITIES REFERRED TO ARE LAW ENFORCEMENT ACTIVITIES AND NOT MILITARY ACTIVITIES.

4. THE CHAIRMAN WILL IN ALL PROBABILITY INCLUDE THIS CHANGE IN THE NEXT TEXT.
LEONARD

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DISPUTE SETTLEMENT, LAW OF THE SEA, COMMITTEE MEETINGS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 07-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USUNN02159
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770242-0663
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770780/aaaacrww.tel
Line Count: 100
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 33f9146f-c288-dd11-92da-001cc4696bcc
Office: ACTION DLOS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1931262
Secure: OPEN
Status: NATIVE
Subject: COMPULSORY DISPUTE SETTLEMENT NEGOTIATION: RELATION OF ARTICLE 18 (1)(B) TO ARTICLE L17 OF PART IV
TAGS: PLOS, XX, UN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/33f9146f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009